IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6830 of 2007()

CRIME NO.679/06 OF THE PERINTHALMANNA POLICE STATION

PETITIONERS - ACCUSED NO.4 AND 6

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1. SALINI S.P., AGED 36 YEARS,
   SRAMBIKKAL HOUSE, PERUMBAVOOR.

2. MUJEEB V.S., AGED 33 YEARS,
   VELLAMVELI HOUSE, RAYONPURAM PO,
   PERUMBAVOOR.

BY ADV. SMT.A.P.LALY @ LALY VINCENT

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6830 OF 2007

Dated this the 14th day of November, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 4 and 6. They face allegations for offences punishable, inter alia, under Sec.395 of the IPC. The crux of the allegations against the petitioners is that a person – the victim who was carrying hawala amount with him, was kidnapped in a vehicle. He was attacked and robbed of the money which he was carrying. The vehicle was allegedly abandoned on the road. The victim was also left on the way. The miscreants were not traceable. The police allegedly came to see the abandoned vehicle and effected recovery under Sec.102 of the Cr.P.C. The victim was later traced. 7 persons have been arrayed as accused. The 5th accused has already been arrested and enlarged on bail. The abandoned vehicle

was seized on 10/10/06. The arrested 5th accused was released on bail as per the order of this Court dated 10/11/06. The petitioners are the 4th and 6th accused who have been brought on the array of accused. Till now, they have not been arrested. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The petitioners may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the available indications point to the culpability of the petitioners. The prosecution heavily relies on the confession statement of the 5th accused as also other circumstances. The petitioners have to be arrested. They have to be interrogated. Attempt must be made to trace the booty and seize the same. There are absolutely no circumstances which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C., submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. Considering

the nature of the case, the learned Public Prosecutor was requested to place the Case Diary for my perusal. I have perused the same. Less said about the quality of investigation in this case, the better. The vehicle was seized on 10/10/06. One of the accused was arrested and was enlarged on bail as early as on 10/11/06. So far, no attempt worth the name has been made for a proper investigation in this crime. I am satisfied that the petitioners do not, in these circumstances, deserve to be enlarged on bail.

5. It is only in the fitness of things that the superior police official must rivet his pointed attention to the nature and quality of investigation in this case.

6. In the result, this bail application is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

7. A copy of this order shall be communicated to the

Superintendent of Police, Malappuram, for information and appropriate and necessary action. The learned Public Prosecutor shall communicate a copy of this order to the Superintendent of Police.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge